

Introduced by Senator Migden

February 18, 2005

An act to amend Section 14124.791 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 558, as introduced, Migden. Medi-Cal: 3rd-party liability.

Existing law prescribes procedures under which a provider, beneficiary, or the Director of Health Services may bring an action or claim against a 3rd party who is liable for services rendered to a beneficiary under the Medi-Cal program. Existing law provides that, subject to a prior right of recovery of the director, a provider who has rendered services to a beneficiary because of an injury for which a 3rd party is liable and who has received payment under the Medi-Cal program shall be entitled to file a lien for the services provided thereto against any judgment, award, or settlement obtained by the beneficiary or the director against that 3rd party if the provider has made a full reimbursement of any fees paid to the department for those services.

Existing law provides that no claim under that authorization shall be permitted to the extent that the claim would reduce the director's right to recover.

This bill would also provide that no claim under that authorization shall be permitted to the extent that it is inconsistent with a specified decision of the California Supreme Court which limited the right of recovery from 3rd parties.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 14124.791 of the Welfare and Institutions Code is amended to read:

14124.791. (a) Subject to the director's prior right of recovery, a provider who has rendered services to a beneficiary because of an injury for which a third party is liable and who has received payment under the Medi-Cal program shall be entitled to file a lien for all fees for services provided to the beneficiary against any judgment, award, or settlement obtained by the beneficiary or the director against that third party. A provider may only recover upon the lien if the provider has made a full reimbursement of any fees paid by the department for those services.

(b) If either the beneficiary or the director brings an action or claim against the third party, the party bringing the action shall, within 30 days of bringing the action, give written notice to any provider who is eligible to file a lien under subdivision (a) of the action and of the name of the court or state or local agency in which the action or claim is brought. Notice shall be given by personal service or registered mail, and proof of service shall be filed in the action or claim.

(c) The provider's claim for reimbursement for fees for services rendered to the beneficiary shall be limited to the amount of the fees less 25 percent, which represents the provider's reasonable share of attorneys' fees for prosecution of the action and of the cost of litigation expense.

(d) No claim authorized by this section shall be permitted to the extent that the claim would reduce the director's right to recover pursuant to Section 14124.78 *or is inconsistent with the California Supreme Court's decision in Olszewski v. ScrippsHealth (2003) 30 Cal.4th 798.*